

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ARDELL HAIRSTON,

Plaintiff,

Case No. 23-cv-12434

Honorable Linda V. Parker

v.

MILHOUSE, et al.,

Defendants.

**OPINION AND ORDER ADOPTING MAGISTRATE JUDGE’S AMENDED
REPORT & RECOMMENDATION AND DISMISSING PLAINTIFF’S
COMPLAINT WITH PREJUDICE FOR FAILURE TO PROSECUTE**

Plaintiff commenced this lawsuit against Defendants on September 26, 2023. (ECF No. 1.) A few days later, a Notice was issued and served on Plaintiff, informing him of the parties’ responsibility to notify the Court of any change in address. (ECF No. 5.) On December 21, 2023, the matter was assigned to Magistrate Judge Elizabeth A. Stafford for all pretrial proceedings, including a hearing and determination of all non-dispositive matters pursuant to 28 U.S.C. § 636(b)(1)(A) and/or a report and recommendation on all dispositive matters pursuant to 28 U.S.C. § 636(b)(1)(B). (ECF No. 10.)

On January 14, 2025, Defendants filed a motion for summary judgment. (ECF No. 29.) When Plaintiff failed to respond to the motion within the required deadline, *see* E.D. Mich. LR 7.1(e)(1)(A), Magistrate Judge Stafford issued an

order for Plaintiff to show cause in writing as to why Defendants' motion should not be granted. (ECF No. 30.) The deadline for Plaintiff to respond to the show cause order was March 21, 2025. (*Id.*)

Plaintiff failed to respond to the show cause order. Therefore, on June 8, 2025, Magistrate Judge Stafford issued a Report and Recommendation ("R&R"), recommending that Plaintiff's Complaint be dismissed for failure to prosecute pursuant to Federal Rule of Civil Procedure 41(b). (ECF No. 32.) An Amended Report and Recommendation ("Amended R&R") was filed June 23, 2025. (ECF No. 33.) In the Amended R&R, Magistrate Judge Stafford again recommends that Plaintiff's Complaint be dismissed with prejudice pursuant to Rule 41(b), but Magistrate Judge Stafford further recommends that Defendants' summary judgment motion be denied as moot. (*Id.*) At the conclusion of both R&Rs, Magistrate Judge Stafford advised the parties of their right to object within fourteen days of being served. She further warned that the failure to file objections waives any further right to appeal.

Magistrate Judge Stafford sent the R&R and Amended R&R to Plaintiff at the last address he provided to the Court (*see* ECF No. 19) and then to the prison facility where Plaintiff was incarcerated according to Michigan's Offender Tracking Information Service (*see* 6/11/25 & 6/23/25 Text-Only Entries). Both mailings were returned as undeliverable. (ECF Nos. 34, 35, 36.) On July 29,

2025, the undersigned made one further attempt to serve the R&R and Amended R&R on Plaintiff. (*See* 7/29/25 Text-Only Entry.)

As of today's date, the latter mailing has not been returned. Nor has Plaintiff responded to Magistrate Judge Stafford's show cause order or R&Rs. The Court has carefully reviewed the Amended R&R and concurs with the conclusions reached by Magistrate Judge Stafford. The Court therefore adopts the Amended R&R.

Accordingly,

IT IS ORDERED that Plaintiff's Complaint is **DISMISSED WITH PREJUDICE** for failure to prosecute pursuant to Federal Rule of Civil Procedure 41.

IT IS FURTHER ORDERED that Defendants' motion for summary judgment (ECF No. 29) is **DENIED AS MOOT**.

s/ Linda V. Parker

LINDA V. PARKER

U.S. DISTRICT JUDGE

Dated: August 18, 2025

I hereby certify that a copy of the foregoing document was mailed to counsel of record and/or pro se parties on this date, August 18, 2025, by electronic and/or U.S. First Class mail.

s/Aaron Flanigan

Case Manager